

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

MARYA THOMPSON,

Plaintiff,

vs.

MICHAEL J. ASTRUE, Commissioner of
Social Security,

Defendant.

MEMORANDUM DECISION AND
ORDER ADOPTING
MAGISTRATE JUDGE'S REPORT
AND RECOMMENDATION

Case No. 2:09-CV-228 TS

This matter is before the Court for review of the Magistrate Judge's April 15, 2010 Report and Recommendation. In his Report and Recommendation, the Magistrate Judge found that the Administrative Law Judge (ALJ) applied the correct standards and (1) properly evaluated whether Plaintiff's impairments met or equaled a listed impairment; (2) properly evaluated the opinion of Plaintiff's treating medical provider; (3) properly evaluated her credibility; and (4) properly determined her residual functional capacity (RFC). The Magistrate Judge also rejected the argument that the record was not complete because Plaintiff failed to either identify any missing evidence or show why the allegedly missing

evidence should be included. The Magistrate Judge, therefore, recommended that the ALJ's denial of disability benefits based on the ALJ's finding that Plaintiff could perform substantial work that existed in the national economy, be affirmed. The Report and Recommendation notified Plaintiff that she had fourteen days to file an objection to the Report and Recommendation and that the failure to file an objection may constitute waiver of those objections on appellate review. Plaintiff has not filed any objection.

If, as in this case, there is no objection to the Report and Recommendation, the Court applies the "clearly erroneous" standard.¹ Under the clearly erroneous standard, this Court will affirm the Magistrate Judge's ruling "unless it 'on the entire evidence is left with the definite and firm conviction that a mistake has been committed.'"²

Having reviewed the record, the Court finds that the Report and Recommendation is not clearly erroneous. Accordingly, it is therefore

ORDERED that the Magistrate Judge's April 15, 2010, Report and Recommendation (Docket No. 21) is AFFIRMED and ADOPTED IN ALL RESPECTS and the denial of benefits is AFFIRMED. It is further

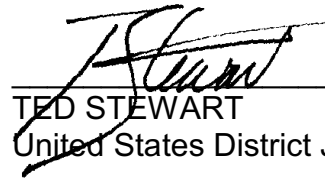
¹28 U.S.C. § 636(b)(1) (requiring de novo review of only "those portions of the report or specified proposed findings or recommendations to which objection is made") and FED. R. CIV. P. 72(b) (3) (same).

²*Ocelot Oil Corp. v. Sparrow Industries*, 847 F.2d 1458, 1464 (10th Cir. 1988) (quoting *United States v. United States Gypsum Co.*, 333 U.S. 364, 395 (1948)).

ORDERED that this case be closed with a judgment.

DATED May 11, 2010.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Ted Stewart", is written over a horizontal line.

TED STEWART
United States District Judge